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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/374,598 08/13/99 MENSEN

J 044696-5007

009629  
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WASHINGTON DC 20036-5869

PM92/0228

EXAMINER

AUBREY, B

ART UNIT

PAPER NUMBER

3635

DATE MAILED:

02/28/00

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

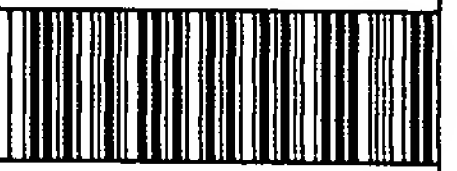
# Office Action Summary

Application No.  
**09/374,598**

Applicant(s)  
**Mensen**

Examiner  
**Beth Aubrey Stephan**

Group Art Unit  
**3635**



☐ Responsive to communication(s) filed on \_\_\_\_\_

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire three month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 1-41 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☒ Claim(s) 1-23 and 41 is/are allowed.

☒ Claim(s) 24-40 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been  
☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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This reissue application was filed without the required offer to surrender the original patent or, if the original is lost or inaccessible, an affidavit or declaration to that effect. The original patent, or an affidavit or declaration as to loss or inaccessibility of the original patent, must be received before this reissue application can be allowed. See 37 CFR 1.178.

### ***Information Disclosure Statement***

Applicant is requested to submit copies of the foreign references and other prior art. The references were inadvertently removed from the patent application.

### ***Specification***

This application does not contain an abstract of the disclosure as required by 37 CFR 1.72(b). An abstract on a separate sheet is required.

### ***Claim Rejections - 35 USC § 112***

Claims 24-40 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 24, lines 7-8, it is not clear how the panel "extends outwardly and upwardly from said bottom thereof".

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***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 24, 34, and 36-40 are rejected, as understood, under 35 U.S.C. 103(a) as being unpatentable over Ritter'032. Ritter teaches a building component comprising first and second panels(29,31) arranged to define a space therebetween for receiving pourable building material, at least two bridging members(4) extending between and connecting the panels, and the first panel extending outwardly and upwardly to define a shelf(22). Ritter lacks the material of the component being foam.

It would have been a matter of obvious design choice for a skilled artisan to have made the component of the material appropriate for the intended use of the component and the environment within which it will be used.

Claims 35 rejected under 35 U.S.C. 103(a) as being unpatentable over Ritter'032 as applied to claim 24 above, and further in view of Berrenberg'855. Ritter teaches the component discussed previously but lacks the bridging members having end plates.

Berrenberg teaches a component having first and second panels(20) arranged to define a space therebetween for receiving pourable building material, at least two bridging members(12)

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extending between and connecting the panels and having end plates(18). It would have been obvious for one having ordinary skill in the art at the time of the invention to have provided the component of Ritter with the members of Berrenberg in order to have add reinforcement to the component.

*Allowable Subject Matter*

Claims 1-23 and 41 are allowed.

Claims 25-33 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2<sup>nd</sup> paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Beth A. Stephan whose telephone number is (703) 308-2485. The examiner can normally be reached Mon thru Thurs from 7:30 am to 6:00 pm. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-7687.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-2168.

Beth A. Stephan

February 24, 2000

*Beth Stephan*  
BETH A. STEPHAN  
PRIMARY EXAMINER  
~~PRIMARY EXAMINER~~  
~~BETH A. STEPHAN~~